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a first search unit adapted to search for a device satisfying the second condition from the database in response to a recognition by said recognition unit that the search result information shows the absence of each attribute designated by the first condition; and

an output unit adapted to output a search result under the first condition when said recognition unit recognizes that the search result information shows the presence of each attribute designated by the first condition, and to output a search result under the second condition when said recognition unit recognizes that the search result information shows the absence of each attribute designated by the first condition.

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#### REMARKS

This application has been reviewed in light of the Office Action dated June 19, 2002. Claims 1-5 and 10-57 are presented for examination, of which Claims 1, 10, 15, 19, 24, 28, 33, 44, 50, and 55-57 are in independent form. Claims 6-9 have been cancelled, without prejudice or disclaimer of the subject matter presented therein. New Claims 37-57 have been added to provide Applicants with a more complete scope of protection. Independent Claims 1, 10, 15, 19, 24, 28, and 33 have been amended to define more clearly what Applicants regard as their invention, and Claims 3-5, 11-14, 16-18, 20-23, 25-27, 30-32, 35, and 36, which are dependent on those claims, have been amended purely as to formal matters. Favorable reconsideration is requested.

The Office Action objected to the specification for certain informalities. Applicants have reviewed and amended the specification, with special attention to the comments

on page 2 of the Office Action, and have adopted the suggested changes. Accordingly, Applicants submit that the informalities have been corrected, and respectfully request withdrawal of the objections.

The Office Action rejected Claims 1-36 under 35 U.S.C. § 103(a) as being unpatentable over the article "Query Previews in Networked Information Systems" (Doan et al.) in view of the article "Lightweight Directory Access Protocol" (Yeong et al.). Cancellation of Claims 6-9 renders their rejections moot. Applicants submit that independent Claims 1, 10, 15, 19, 24, 28, 33, 44, 50, and 55-57, together with the claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in Claim 1 is directed to a device search system with a server unit and a client unit. The server unit includes database control means for controlling a database in which information for identifying a device on a network and information of various attributes of the device are registered. The database control means executes a search for a device in accordance with a search request from the client unit.

The client unit includes first and second generation means, recognition means, search means, and output means. The first generation means generates a first condition designating one or more attributes in order to search for a desired device on the network. The recognition means recognizes whether obtained search result information shows a presence or an absence of each attribute designated by the first condition. The second generation means extracts a certain attribute from the first condition to generate a second condition. The search means requests the server unit to search the database for information of a device satisfying the second

condition in response to a recognition by the recognition means that the search result information shows the absence of each attribute designated by the first condition. The output means outputs a search result under the first condition when the recognition means recognizes that the search result information shows the presence of each attribute designated by the first condition, and outputs a search result under the second condition when the recognition means recognizes that the search result information shows the absence of each attribute designated by the first condition.

Doan et al., as understood by Applicants, relates to a two-phased query formulation. The two phases are a Query Preview phase and a Query Refinement phase. Apparently, users formulate an initial query by selecting rough attribute values in the Query Preview phase. After reviewing the query results of the Query Preview phase, the users then formulate a second query in the Query Refinement phase, based on precise attribute values. Thus, the users are required to execute a data input operation twice to obtain desired results. The Office Action concedes that Doan et al. does not expressly disclose the claimed client unit.

Yeong et al., as understood by Applicants, relates to a directory access protocol that utilizes a server unit with a database. Apparently, Yeong et al. teaches that the server unit may be queried, such as by an Add Operation.

Applicants submit that a combination of Doan et al. and Yeong et al., assuming such combination would even be permissible, would fail to teach or suggest a device search system with a server unit and a client unit, wherein the client unit includes "search means for requesting said server unit to search the database for information of a device satisfying the

second condition generated by the second generation means in response to a recognition by the recognition means that the search result information shows the absence of each attribute designated by the first condition," and "output means for outputting a search result under the first condition when the recognition means recognizes that the search result information shows the presence of each attribute designated by the first condition, and for outputting a search result under the second condition when the recognition means recognizes that the search result information shows the absence of each attribute designated by the first condition," wherein the first condition is a condition that designates "one or more attributes in order to search for a desired device on the network," and wherein the second condition is based on an attribute extracted from the first condition, as recited in Claim 1.

According to the system of Claim 1, a user needs to execute only one input operation for a query. If search result information obtained in response to that one input operation (corresponding to the first condition) shows an absence of each attribute of the first condition, the search means automatically requests the server unit to search the database based on the second condition in place of the first condition. This feature reduces the number of operations that the user must make for a query. Neither Doan et al. nor Yeong et al., considered separately or in combination, is understood to teach or suggest such a feature.

The Office Action states that Yeong et al. on page 10 teaches the use of a filter to define conditions that must be fulfilled in order for a search to match a given query. Even if this is assumed to be true, both Yeong et al. and Doan et al. fail to disclose that a subsequent search is automatically performed for a device satisfying a second condition, based on an

attribute of the first condition, if search result information shows the absence of each attribute designated by the first condition, as claimed in Claim 1. As discussed above, the system of Claim 1 reduces the number of operations that a user must make for a query, and this feature is not believed to be disclosed in the cited art.

Accordingly, Applicants submit that Claim 1 is patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent Claims 10, 15, 19, 24, 28, 33, 44, 50, and 55-57 include a feature similar to that discussed above, in which, if search result information obtained in response to a single input operation (corresponding to a first condition) shows an absence of each attribute of the first condition, a server unit is automatically requested to search a database based on a second condition in place of the first condition, wherein the second condition is based on an attribute of the first condition. Accordingly, Claims 10, 15, 19, 24, 28, 33, 44, 50, and 55-57 are believed to be patentable for at least the same reasons as discussed above.

The other claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual consideration or reconsideration, as the case may be, of the patentability of each claim on its own merits is respectfully requested.

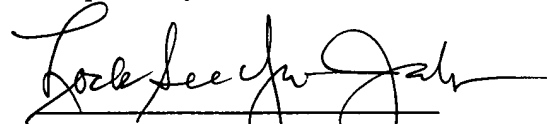
In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

No petition to extend the time for response to the Office Action is deemed

necessary for the present Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 06-1205.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

  
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VERSION WITH MARKINGS TO SHOW CHANGES MADE TO SPECIFICATION

*The paragraph located on page 1 at lines 7-18 has been amended as follows:*

--[Directly] Directory service has been provided so far as a method for efficiently finding various resources (including a printer and a scanner) on a network to use them. The [directly] directory service is, so to speak, a telephone directory for a network, which is used to store various pieces of information. LDAP (Lightweight Directory Access Protocol) is a specific example of a directory system. LDAP rules is described in RFC 1777 issued by IETF. By using the directory service and thereby searching a device connected to a network, it is possible to obtain a list of network addresses of devices usable on the network.--

*The paragraph located on page 6 at lines 4-13 has been amended as follows:*

--Among the above devices, 101, 102, 103, 111, 112, and 120 are set on the second floor and 104 and 105 are set on the first floor. Because the client 113 is a notebook PC, it is connected to LAN 100 from the first floor at present. However, the client 113 may be removed because of its portability. Moreover, the network 100 for connecting these devices to each other is connected to Internet 130 through a fire wall 120 and moreover connected with other network 140 through Internet 130.--

*The paragraph starting on page 9 at line 9 and ending on page 10 at line 16 has been amended as follows:*

--Then, operations of the device search server 112 are described below by referring to flow charts in FIGS. 4 and 5. First, FIG. 4 is a flow chart for explaining operations of the device search server 112. Judgment and execution of a series of the processes are formed by the CPU 201 in the device search server by hardware. When the device search server 112 is started, it first opens a receiving port for receiving a device search request from a device search client in step S401. When receiving the search request from the device search client through the above operation, an operating system issues a reception event and reception of the search request is communicated to a program. Then, the server 112 starts step S402 to wait for any event to be communicated from the operating system. When any event is communicated, the server 112 obtains the event and starts the next step. In the next step S403, the server 112 judges whether the event obtained step S402 is a system shutdown event by a user. If the [vent] event is a shutdown event, the server 112 closes the receiving port in step S408 to end the program. However, when it is judged that the event is not a shutdown event in step S403, the server 112 starts step S404 to judge whether the event is an inquiry event from the device search client. If the event is an inquiry event, the server 112 starts step S405 to select a proper device by collating a search condition obtained through the event with the data base shown in FIG. 3. In the next step S406, the server 112 returns a search result obtained in step S405 to the device search client. However, when it is judged that the event is not an inquired reception event in step S407, a



server 112 starts step S407 to perform a process other than the inquired reception event such as update a display screen.--

*The paragraph located on page 15 at lines 14-25 has been amended as follows:*

--FIG. 9 is a flow chart showing operations of the device search clients 111 and 113. It is also possible to execute a program of a device search client on the device search server 112. First, rough operations of the program of the device search client are described below. The program waits for an event until a system ends and when an event occurs, operates as an event-driving-type program for processing the event. Main events include a system ending event, a device search requesting event, and a device search result event receiving event. Hereafter, each step is described in detail.--

*The paragraph located on page 27 at lines 8-19 has been amended as follows:*

--In step S1407, pieces of information for the device name 301, network address 302, device type 304 and moreover, color print function attribute 305, double-sided print function attribute 306, and staple action attribute 307 are obtained out of the registered device information which is judged as matching the search condition in step S1406. Then, in the next step S1408, the obtained pieces of information are added to search result information. When the process in step S1408 is [ends] done, step S1404 is restarted to continuously search the next device information registered in the database 300.--

VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS

1. (Amended) A device search system comprising a server unit and a client unit,  
wherein said server unit comprises:

database control means for controlling a database in which information for  
identifying a device on a network and information [for] of various attributes of the device are  
registered and for executing [the] a search [of the] for a device in accordance with a search  
request[, and a client unit for outputting the search request to the server unit] from said client  
unit, and

wherein said client unit [comprising] comprises:

first generation means for generating a first condition designating one or  
more attributes in order to search for a desired device on the network[,];

recognition means for recognizing whether obtained search result  
information shows a presence or an absence of each attribute designated by the first condition  
generated by the first generation means;

second generation means for extracting a certain attribute from the first  
condition to generate a second condition[,];

search means for requesting [the] said server unit to search [in accordance  
with the second condition to obtain] the database for information [for] of a device [matching]  
satisfying the second condition [as a result of the above search,

first control means for sorting and outputting only the information for the

device matching the first condition as first result information in accordance with the obtained search result, and

second control means for outputting the information for the device matching the second condition as second result information in accordance with the obtained search result and the information showing presence or absence of each attribute designated by the first condition for each device] generated by the second generation means in response to a recognition by the recognition means that the search result information shows the absence of each attribute designated by the first condition; and

output means for outputting a search result under the first condition when the recognition means recognizes that the search result information shows the presence of each attribute designated by the first condition, and for outputting a search result under the second condition when the recognition means recognizes that the search result information shows the absence of each attribute designated by the first condition.

3. (Amended) The device search system according to claim 2, wherein [the] said client unit further comprises;

third control means for selectively outputting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition.

4. (Amended) The device search system according to claim 3, wherein

the third control means outputs the [first] search result information under the first condition when a device to be [output] outputted as the [first] search result information under the first condition is present, and outputs the second result information when a device to be [output] outputted as the [first] search result information under the first condition is not present.

5. (Amended) The device search system according to claim 2, wherein  
[the] said client unit further comprises storage means for storing symbol information corresponding to an attribute [which] that can be designated by the first condition, and

when the [second] search result information under the second condition is [output] outputted and when the information showing a presence or an absence of each attribute designated by the first condition [output] is outputted, a presence or an absence of each attribute is shown in accordance with a display mode of the symbol information corresponding to each attribute.

Claims 6-9 have been canceled.

10. (Amended) [A device search system for requesting a server unit for controlling] An apparatus for searching a database in which information for identifying a device on a network and information [for] of various attributes of the device are registered [to search the device and processing a search result], in accordance with a query sent to a server unit, said

apparatus comprising:

first generation means for generating a first condition designating one or more attributes in order to search for a desired device on the network;

recognition means for recognizing whether obtained search result information shows a presence or an absence of each attribute designated by the first condition generated by said first generation means;

second generation means for extracting a certain attribute from the first condition [and generating] to generate a second condition;

search means for [outputting a search request to] requesting the server unit [in accordance with the second condition and obtaining] to search the database information for a device [matching] satisfying the second condition [as a search result;

first control means for sorting and outputting information for only a device matching the first condition as first result information in accordance with the obtained search result; and

second control means for outputting information for a device matching the second condition and information showing presence or absence of each attribute designated by the first condition for each device] generated by said second generation means in response to said recognition means recognizing that the search result information shows the absence of each attribute designated by the first condition; and

output means for outputting a search result under the first condition when said recognition means recognizes that the search result information shows the presence of each

attribute designated by the first condition, and for outputting a search result under the second condition when said recognition means recognizes that the search result information shows the absence of each attribute designated by the first condition.

11. (Amended) The [device search system] apparatus according to claim 10,  
wherein

attributes of a device controlled by the database include an indispensable attribute registered whenever a device is registered in the database and attributes other than the indispensable attribute, and

[the] said second generation means extracts only the indispensable attribute from attributes designated by the first condition and generates the second condition.

12. (Amended) The [device search system] apparatus according to claim 11,  
further comprising[:]  
third control means for selectively outputting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition.

13. (Amended) The [device search system] apparatus according to claim 12,  
wherein [the] said third control means outputs the [first] search result information under the first condition when a device to be [output] outputted as the first result information is present, and outputs the [second] search result information under the second condition when the device to be

[output] outputted as the [first] search result information under the first condition is not present.

14. (Amended) The [device search system] apparatus according to claim 11, further comprising[:] storage means for storing symbol information corresponding to an attribute [which] that can be designated by the first condition, wherein, when the [second] search result information under the second condition is [output] outputted and when information showing a presence or an absence of each attribute designated by the first condition is [output] outputted, a presence or an absence of each attribute is shown in accordance with a display mode of the symbol information corresponding to each attribute.

15. (Amended) [A device search system for executing device search in accordance with a search request] An apparatus for searching a database in accordance with a query received from a client unit [for requesting search of a device on a network], said apparatus comprising:

execution means for executing a search in accordance with a search request from the client unit;

database control means for controlling a database in which information for identifying [the] a device on [the] a network and information for various attributes of the device are registered, and for controlling execution of the search for the device in accordance with the search request from the client unit;

reception means for receiving from the client unit a first condition designating one



or more attributes in order to search for a desired device on the network [from the client unit];

recognition means for recognizing whether obtained search result information shows a presence or an absence of each attribute designated by the first condition received by said reception means;

generation means for extracting a certain attribute from the first condition [and generating] to generate a second condition;

first search means for searching for a device [matching the first] satisfying the second condition [out of] from the database [and outputting first result information] in response to a recognition by said recognition means that the search result information shows the absence of each attribute designated by the first condition; and

[second search means for searching a device matching the second condition from the database and outputting second result information] output means for outputting a search result under the first condition when said recognition means recognizes that the search result information shows the presence of each attribute designated by the first condition, and for outputting a search result under the second condition when said recognition means recognizes that the search result information shows the absence of each attribute designated by the first condition.

16. (Amended) The [device search system] apparatus according to claim 15,  
wherein

attributes of a device controlled by the database include an indispensable attribute

registered whenever a device is registered in the database and attributes other than the indispensable attribute, and

[the] said generation means extracts only the indispensable attribute from attributes designated by the first condition and [generating] generates the second condition.

17. (Amended) The [device search system] apparatus according to claim 16, further comprising[:] control means for selecting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition.

18. (Amended) The [device search system] apparatus according to claim 17, wherein [the] said control means returns the [first] search result information under the first condition to the client unit when a device to be [output] outputted as the [first] search result information under the first condition is present, and returns the [second] search result information under the second condition to the client unit when a device to be [output] outputted as the [first] search result information under the first condition is not present.

19. (Amended) A [device search] method for [requesting a server unit for controlling] searching a database in which information for identifying a device on a network and information [for] of various attributes of the device are registered [to search a device and processing a result of the search], in accordance with a query sent to a server unit, said method

comprising [the steps of]:

a generation step of generating a first condition designating one or more attributes in order to search for a desired device on the network;

a recognition step of recognizing whether obtained search result information shows a presence or an absence of each attribute designated by the first condition generated in said generation step;

an extraction step of extracting a certain attribute from the first condition [and generating] to generate a second condition;

a request step of requesting the server unit to [perform search in accordance with the second condition and obtaining] search the database for information [for] of a device [matching] satisfying the second condition [as a result of the search;

sorting and outputting only information for a device matching the first condition as first result information in accordance with the obtained search result; and

outputting the information for the device matching the second condition and information showing presence or absence of each attribute designated by the first condition for each device] generated in said extraction step in response to a recognition in said recognition step that the search result information shows the absence of each attribute designated by the first condition; and

an output step of outputting a search result under the first condition when said recognition step recognizes that the search result information shows the presence of each attribute designated by the first condition, and outputting a search result under the second

condition when said recognition step recognizes that the search result information shows the absence of each attribute designated by the first condition.

20. (Amended) The [device search] method according to claim 19, wherein attributes of a device controlled by the database include an indispensable attribute registered whenever a device is registered in the database and attributes other than the indispensable attribute, and only the indispensable attribute is extracted from attributes designated by the first condition when the second condition is generated.

21. (Amended) The [device search] method according to claim 20, further comprising [the] an output control step of[: selective] selectively outputting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition.

22. (Amended) The [device search] method according to claim 21, wherein the [first] search result information under the first condition is [output] outputted when a device to be [output] outputted as the [first] search result information under the first condition is present, and the [second] search result information under the second condition is [output] outputted when the device to be [output] outputted as the [first] search result information under the first condition is not present.

23. (Amended) The [device search] method according to claim 20, further comprising [the] a control step of[:] controlling symbol information corresponding to an attribute [which] that can be designated by the [second] search result information under the second condition, wherein, when the [second] search result information under the second condition is [output] outputted and when information showing a presence or an absence of each attribute designated by the first condition is [output] outputted, a presence or an absence of each attribute is shown in accordance with a display mode of symbol information corresponding to each attribute.

24. (Amended) A [device search] method for searching a [device in accordance with a search request] database in accordance with a query received from a client unit [for requesting search of a device on a network], said method comprising [the steps of]:

an execution step of executing a search in accordance with a search request from the client unit;

a database control step of controlling a database in which information for identifying a device on the network and information [for] of various attributes of the device are registered, and executing a search for a device in accordance with the search request from the client unit;

a reception step of receiving from the client unit a first condition designating one or more attributes in order to search for a desired device on the network [from the client unit];

a recognition step of recognizing whether obtained search result information

shows a presence or an absence of each attribute designated by the first condition received in said reception step;

an extraction step of extracting a certain attribute from the first condition [and generating] to generate a second condition;

a search step of searching for a device [matching the first] satisfying the second condition from the database [and outputting first result information] in response to a recognition in said recognition step that the search result information shows the absence of each attribute designated by the first condition; and

[searching a device matching the second condition and outputting second result information] an output step of outputting a search result under the first condition when said recognition step recognizes that the search result information shows the presence of each attribute designated by the first condition, and outputting a search result under the second condition when said recognition step recognizes that the search result information shows the absence of each attribute designated by the first condition.

25. (Amended) The [device search] method according to claim 24, wherein attributes of a device controlled by the database include an indispensable attribute registered whenever a device is registered in the database and attributes other than the indispensable attribute, and

only the indispensable attribute is extracted from attributes designated by the first condition when the second condition is generated.

26. (Amended) The [device search] method according to claim 25, further comprising [the] a selection step of[:] selecting the [first] search result information under the first condition or the [second] search result information under the second condition [is selected] in accordance with a predetermined condition and [returned] returning the selected search result information to the client unit.

27. (Amended) The [device search] method according to claim 26, wherein the [first] search result information under the first condition is returned to the client unit when a device to be [output] outputted as the [first] search result information under the first condition is present, and

the [second] search result information under the second condition is returned to the client unit when the device to be [output] outputted as the [first] search result information under the first condition is not present.

28. (Amended) A storage medium storing a computer program to be executed by a computer [of a device search system for requesting a server unit for controlling] to implement a method for searching a database in which information for identifying a device on a network and information [for] of various attributes of the device are registered [to search a device and processing a result of the search], in accordance with a query sent to a server unit, wherein the [program] method comprises [the steps of;]:

a generation step of generating a first condition designating one or more attributes

in order to search for a desired device on the network;

a recognition step of recognizing whether obtained search result information shows a presence or an absence of each attribute designated by the first condition generated in the generation step;

an extraction step of extracting a certain attribute from the first condition [and generating] to generate a second condition;

a request step of requesting server unit to [perform search in accordance with the second condition and obtaining] search the database for information [for] of a device [matching] satisfying the second condition [as a result of the search;

sorting and outputting only information for a device matching the first condition as first result information in accordance with the obtained search result; and

outputting information for the device matching the second condition as second result information and information showing presence or absence of each attribute designated by the first condition for each device in accordance with the obtained search result] generated in the extraction step in response to a recognition in the recognition step that the search result information shows the absence of each attribute designated by the first condition; and

an output step of outputting a search result under the first condition when the recognition step recognizes that the search result information shows the presence of each attribute designated by the first condition, and outputting a search result under the second condition when the recognition step recognizes that the search result information shows the absence of each attribute designated by the first condition.



30. (Amended) The storage medium according to claim 29, wherein the [computer program] method further comprises [the] an output control step of[;] selectively outputting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition.

31. (Amended) The storage medium according to claim 30, wherein the [first] search result information under the first condition is [output] outputted when a device to be [output] outputted as the [first] search result information under the first condition is present, and the [second] search result information under the second condition is [output] outputted when the device to be [output] outputted as the [first] search result information under the first condition is not present.

32. (Amended) The storage medium according to claim 29, wherein the [computer program] method further comprises[;] a control step of controlling symbol information corresponding to an attribute [which] that can be designated by the first condition, [and to output] wherein, when the [second] search result information under the second condition is outputted and when information showing a presence or an absence of each attribute designated by the first condition is outputted, a presence or an absence of each attribute is shown in accordance with a display mode of symbol information corresponding to each attribute.

33. (Amended) A storage medium storing a computer program to be executed by

a computer [of a device search system for executing search of a device in accordance with a search request] to implement a method for searching a database in accordance with query received from a client unit [for requesting search of a device on a network], wherein the [computer program] method comprises [the steps of];

an execution step of executing a search in accordance with a search request from the client unit;

a database control step of controlling a database in which information for identifying a device on the network and information for various attributes of the device, and executing a search of a device in accordance with the search request from the client unit;

a reception step of receiving from the client unit a first condition designating one or more attributes in order to search for a desired device on the network [from the client unit,];

a recognition step of recognizing whether obtained search result information shows a presence or an absence of each attribute designated by the first condition received in the reception step;

an extraction step of extracting a certain attribute from the first condition [and generating] to generate a second condition[,];

a search step of searching for a device [matching the first] satisfying the second condition from the database [and generating first result information,] in response to a recognition in the recognition step that the search result information shows the absence of each attribute designated by the first condition; and

[searching a device matching the second condition from the database and

generating second result information] an output step of outputting a search result under the first condition when the recognition step recognizes that the search result information shows the presence of each attribute designated by the first condition, and outputting a search result under the second condition when the recognition step recognizes that the search result information shows the absence of each attribute designated by the first condition.

35. (Amended) The storage medium according to claim 34, wherein the [computer program] method further comprises [the] a selection step of [;] selecting the [first] search result information under the first condition or the [second] search result information under the second condition in accordance with a predetermined condition and returning the selected search result information to the client unit.

36. (Amended) The storage medium according to claim 35, wherein the [first] search result information under the first condition is returned to the client unit when a device to be [output] outputted as the [first] search result information under the first condition is present, and

the [second] search result information under the second condition is returned to the client unit when the device to be [output] outputted as the [first] search result information under the first condition is not present.